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**United States Calls on Japan to Undertake Sweeping Reforms in
Fourth Annual Submission on Deregulation and Competition Policy**

United States Trade Representative Charlene Barshefsky announced today that the United States Government formally presented its fourth annual submission on deregulation and competition policy to the Government of Japan. Under the bilateral Enhanced Initiative on Deregulation and Competition Policy, the 49-page submission calls on Japan to adopt sweeping regulatory reforms in key sectors and structural areas intended to help the Japanese economy get back on track and expand market access for U.S. and other foreign companies exporting to and operating in Japan.

“The Enhanced Initiative on Deregulation and Competition Policy is the most significant bilateral mechanism we have to address structural and regulatory barriers impeding access to Japanese markets,” said Ambassador Barshefsky. “Our new proposal’s focus on information-technology dovetails with Prime Minister Mori’s objective of achieving an IT revolution, which holds the promise of creating a legal and regulatory environment in which the digital economy in Japan can flourish with minimal government intervention. In addition, revision of Japan’s Commercial Code -- the first such comprehensive revision in half a century -- will help to better integrate Japan into the international economy and have far-reaching implications for U.S. companies operating there.”

In July, Ambassador Barshefsky announced in Tokyo that Japan had agreed to undertake significant new deregulation measures, particularly in the telecommunications sector, under the Third Joint Status Report of the enhanced initiative. Later that month, President Clinton and Prime Minister Mori agreed to extend the initiative for a fourth year. Today’s submission by the U.S. is the first step in that process.

Given the potential boost to growth that information-technology can give to the Japanese economy, this year’s submission has expanded its telecommunications component to include numerous proposals on cutting-edge IT issues, particularly e-commerce. Reflecting the cross-cutting nature of this sector, IT-related policy recommendations appear throughout the submission. Also new to the submission is a

section on the revision of Japan's Commercial Code, which provides the fundamental regulatory framework for conducting business in Japan. Additional key sectors and structural areas addressed in this year's submission are: medical devices and pharmaceuticals, financial services, insurance, housing, energy, distribution, legal system reform, competition policy and transparency.

Working groups from the United States and Japanese Governments will meet in the coming months to discuss the proposals contained in this year's submission. This document and the bilateral working group meetings will form the basis for a Fourth Joint Status Report to be issued in the spring of 2001. The full submission can be found on the USTR Web site at www.ustr.gov.

BACKGROUND: Highlights of this year's U.S. deregulation and competition policy submission to Japan are provided below.

Telecommunications and Information-Technology: Recognizing the importance of building a vibrant information-technology sector as a means to bolster Japan's economic growth, this year's telecommunications component has been expanded to include information-technology. In addition to addressing key e-commerce and e-government issues, the submission includes proposals on security, privacy, carrier liability and the new challenges that the Internet poses to existing intellectual property protection. Telecommunications will remain a key component of this section. The United States is urging Japan, for example, to establish strong dominant-carrier regulation. It is also calling on Japan to achieve more independent telecom regulation by fully separating regulation of this important sector from the government's industrial promotion policies. In addition, the United States is urging Japan to eliminate rules and practices that deny competitors access to rights of way, facilities, and services necessary to provide high-quality, up-to-date and affordable telecommunication services to consumers in Japan.

Medical Devices and Pharmaceuticals: In the first three years of the Enhanced Initiative, Japan has achieved important progress in these sectors, such as shortening the new drug approval time to 12-months, increasing the use of foreign clinical data in approving medical devices and pharmaceuticals, and providing provisional prices for certain new medical devices. The ongoing healthcare reform process in Japan, however, holds the potential for achieving even greater improvements. In this year's submission, the United States recommends that Japan adopt measures to: (1) expedite and increase the availability of innovative medical devices; (2) expand consultations between the Japanese Government and industry regarding pharmaceutical pricing reform to promote the availability of innovative pharmaceuticals; (3) take further steps to prevent duplicative clinical testing for pharmaceutical approvals; (4) expedite the approval of medical devices; (5) ensure direct industry input in the medical device and pharmaceutical pricing decision processes; and (6) liberalize the sale of nutritional supplements.

Financial Services: Japan has made notable progress in increasing the efficiency and competitiveness of its financial markets under the Big Bang initiative, which aims to make Tokyo's financial markets "free, fair and global." In addition to monitoring the implementation of measures taken to date and welcoming the steps to come under the Big Bang, we have encouraged further key changes following from our 1995 financial services agreement and as part of the Enhanced Initiative. A transparent regulatory and supervisory regime is necessary to ensure the safety and efficiency of the financial sector. This year's financial services proposals will contribute to further opening and developing the Japanese financial markets, thereby allowing Japan to enjoy more fully international financial expertise and helping to support Japan's future growth. In addition, in this year's submission, while welcoming steps Japan has taken to further deregulate and increase transparency in its insurance product approval system, the United States is urging the Financial Services Agency to undertake planned regulatory reform in an open and transparent manner which fully involves all interested private sector parties. Regarding the postal insurance system (kampo), the United States is calling for a halt to any expansion of kampo underwriting activities as well as a commitment by Japan to give meaningful opportunities to interested private sector entities to be informed of and comment on future Japanese Government plans related to

kampo, including its transformation into a “yusei kosha” in 2003.

Housing: The United States urges Japan to take a renewed look at ways, including changes to housing finance policies, to substantially increase the sale of existing homes and expand the market for home renovation. To take advantage of new technologies, the United States recommends that Japan make the housing sector a model for the Prime Minister's Information Technology initiative. Growth in the resale and renovation markets will provide Japanese consumers with wider choice and better prices and will, as in the United States, generate significant growth for the overall economy. The United States also focuses this year on technical building regulations and standards issues that continue to impede the use of U.S. building products and building systems.

Energy: While welcoming Japan's latest steps in energy deregulation in this year's submission, the United States calls on Japan to take more aggressive steps to promote the emergence of competitive wholesale and retail energy sectors. The United States urges Japan to ensure that the new divisions created in the Ministry of International Trade and Industry (MITI) in January 2001 to regulate the electricity and gas industries are fully independent and staffed with a sufficient number of energy sector experts to carry out their monitoring and enforcing duties. Also included are recommendations that Japan establish measurements to gauge progress achieved in the liberalization process in the energy sector. In addition, the United States is calling on Japan to conduct comprehensive interim reviews of the liberalization progress in the gas and electricity sectors by the end of 2001 -- and not wait until the currently scheduled review dates of 2002 and 2003, respectively. Other key elements in the submission are proposals that Japan: (1) require that utilities make transparent the way they calculate their tariffs; (2) ensure open and non-discriminatory access to electricity transmission and distribution facilities; and (3) ensure open and non-discriminatory access to gas pipelines and LNG terminals.

Distribution: This year's distribution submission calls on MITI to monitor implementation of the Large-Scale Retail Store Location Law (*Daiten-Ricchi Ho*), which entered into effect on June 1, 2000. In particular, the submission urges MITI to take appropriate measures to ensure that the new Law is applied fairly, reasonably and uniformly by the local governments, which have been assigned the primary responsibility for its implementation. With respect to import processing, the United States urges Japan to continue modernizing and streamlining customs clearance procedures by, among other measures, extending the new Simplified Declarations Procedures Act to express carriers, and increasing the de minimus value in the Customs Clearance Law from 10,000 yen to 20,000 yen (a level similar to that employed in the United States). The submission also calls on MITI to work closely with the JFTC to promote competition in highly oligopolistic industry sectors.

Legal System and Infrastructure: To address the growing concern of the U.S. business community with the inadequacy of the legal infrastructure in Japan, the United States has expanded its submission this year to set out a number of legal issues the Japanese Government should address. These include: (1) increasing the number of legal professionals in Japan; (2) improving the litigation process; (3) reforming Japan's arcane arbitration law; (4) augmenting judicial oversight over administrative agencies; (5) improving the ability of courts to issue and enforce prompt and effective orders to remedy legal violations; and (6) improving the transparency of judicial proceedings. In addition, the United States continues to press Japan to remove the ban on partnerships between Japanese and foreign lawyers.

Competition Policy: In the Third Joint Status Report, Japan confirmed that it will ensure the independence of the Japan Fair Trade Commission (JFTC) when the central government is reorganized in January 2001 and the JFTC becomes part of the *Soumusho* (General Affairs Ministry). In this year's submission, the United States recommends that Japan take formal measures to safeguard the JFTC's independence following the reorganization. It urges the JFTC to play an active role in promoting competition in regulated sectors, including by establishing a joint working group with the Ministry of Posts and Telecommunications (MPT) to review ways to promote competition in the telecommunications, postal insurance and other postal services sectors under MPT jurisdiction. In addition, the United States is urging Japan to substantially increase the JFTC's overall staff levels. The submission also calls on Japan to make operation of the surcharge payment system more effective in supporting the investigation and deterrence of collusive agreements among competitors.

Transparency: Under the Enhanced Initiative, Japan has implemented a number of measures aimed at increasing the transparency and accountability of its regulatory system, including the enactment of an information disclosure law, adoption of rulemaking procedures and introduction (in January 2001) of a policy evaluation process. Building on these measures, the United States is seeking steps in this year's submission that would curtail bureaucratic discretion by: (1) incorporating the rulemaking procedures into a law; (2) requiring that administrative guidance be issued in writing; and (3) requiring administrative agencies to allow the public to comment on proposed legislation before it is submitted to the Diet. In addition, the United States is asking Japan to require industry associations, special public corporations (*tokushu hojin*) and other organizations with legal authority that serve as self-regulating organizations to increase their transparency and accountability -- including by allowing interested parties to comment on their proposed rules.

Commercial Code: The Japanese Government recently announced the beginning of a major initiative to reform its Commercial Code, which provides the fundamental regulatory framework for conducting business in Japan. This is the first comprehensive review of the Code in half a century. A bold revision of the Code, which is scheduled for completion in 2002, could introduce greater flexibility in the organization, management and capital structure of Japanese companies, and improve their efficiency and accountability. Ultimately, this will strengthen Japanese firms and improve the business environment for foreign firms. The current Commercial Code stifles investment (both domestic and foreign) and is hurting Japan's efforts to integrate more fully in the international economy. The United States has recommended that Japan consider revisions of the Commercial Code that would: (1) make corporate boards more independent of management and accountable to shareholders; (2) eliminate many of the current restrictions on a company's capital structure; and (3) push Japan closer to international standards of accounting and disclosure. The submission also calls on Japan to allow for greater public and foreign expert input in the process of the Code's revision.